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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Marton et al. Confirmation No.: 8604
Serial No.: 09/823,322 Art Unit: 1631
Filed: April 2, 2001 Examiner: Marschel, A.
For: METHODS FOR DETERMINING Attorney Docket No.: 9301-136
THERAPEUTIC INDEX FROM
GENE EXPRESSION PROFILES

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the decision dated August 11, 2004 of the Primary Examiner finally rejecting claims 1, 8-10, 12, 19-21, 64, 69 and 70, and objecting to claims 11, 22, 65-68, 71 and 72 of the above-identified application.

The item(s) checked below are appropriate:

1. An extension of time for responding to the final rejection for month(s):
 was filed on
 is submitted herewith.
2. A timely response to the final rejection has been filed.
3. A fee in the amount of \$340.00 is:
 Required.
 Not required (Fee paid in prior appeal).
4. Applicant has qualified for the 50% reduction in fee for an independent inventor, non-profit organization or small business concern and a fee in the amount of \$170.00 is:
 Required.
 Not required (Fee paid in prior appeal).
5. Please charge the required fee, if any, to Jones Day Deposit Account No. 50-3013. A copy of this sheet is enclosed.

Respectfully submitted,

Date: November 10, 2004

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